

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:

No. 16-43138

MATTHEW and YOUNG SHOEMAKER,

Debtors.

KATHRYN A. ELLIS, Trustee of the Estate
of Matthew and Young Shoemaker,

Adv. No.

Plaintiff,

COMPLAINT TO AVOID/RECOVER
FRAUDULENT TRANSFERS

vs.

NATIONAL DEBT RELIEF LLC, a New
York Limited Liability Company doing
business in the State of Washington,

Defendant.

COMES NOW the Plaintiff, Kathryn A. Ellis, by and through the undersigned attorney,
and states and alleges as follows:

I. PARTIES AND JURISDICTION

1. Plaintiff. Plaintiff is the duly appointed and acting Chapter 7 Trustee in the
Chapter 7 Bankruptcy Petition of the debtors above named. The Trustee is authorized to bring
this action pursuant to §§ 548, 550 and 551 of the Bankruptcy Code and does so solely in her
capacity as Trustee for the estate of Matthew and Young Shoemaker.

2. Debtors. The debtors filed the present Chapter 7 Bankruptcy Petition on July 28,
2016.

KATHRYN A. ELLIS, ESQ.
5506 6th Ave S
Suite 207
Seattle, WA 98108
(206) 682-5002

COMPLAINT TO AVOID/RECOVER FRAUDULENT TRANSFERS - 1

1 3. Defendant. Upon information and belief, National Debt Relief LLC is a New
2 York Limited Liability Company doing business in the State of Washington.

3 4. This adversary proceeding is one arising in the Chapter 7 case of the above named
4 debtors now pending in this Court. This Court has jurisdiction over this adversary proceeding
5 pursuant to 28 U.S.C. §§ 157, 1334 and 11 U.S.C. §§ 548 and 550. This is a core proceeding
6 under 28 U.S.C. § 157 (b)(2)(A), (E), (H) and/or (O).
7

8 **II. FIRST CAUSE OF ACTION**
9 Fraudulent Transfer - 11 U.S.C. § 548

10 5. Within two years prior to the filing of the Bankruptcy Petition, the debtors
11 transferred the sum or value of at least \$3,184.37 to Defendant for debt adjustment service fees
12 (“Transfers”).

13 6. At the time of said Transfers, the debtors were insolvent or became insolvent as a
14 result of the Transfers.
15

16 7. The Transfers were for the benefit of the Defendant and the debtors did not
17 receive reasonably equivalent value in exchange for the Transfers.

18 8. The Transfers made to or for the benefit of the Defendant as set forth in paragraph
19 5 are avoidable by the Trustee pursuant to 11 U.S.C. § 548 (a)(2).
20

21 **II. SECOND CAUSE OF ACTION**
22 Violation of Consumer Protection Act

23 9. Plaintiff re-alleges and incorporates by reference each and every allegation set
24 forth in Paragraphs 1 through 8 above, inclusive, as though fully set forth herein.

25 10. Defendant made false or misleading representations to the debtors.

26 11. Defendant directly or indirectly employed a scheme, device, or artifice to mislead
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28

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1 the debtors as to the services to be provided to the debtors, and/or otherwise engaged in unfair or
2 deceptive practices towards the debtors.

3 12. Defendant's actions set forth above occurred in the conduct of trade or commerce.

4 13. Defendant's conduct affects the public interest.

5 14. On information and belief, Defendant has made similar false or misleading
6 representations to other debtors.

7 15. The debtors suffered injury by a loss of all of the fees forfeited to Defendant.

8 16. Accordingly, Defendant is liable to Plaintiff for damages in amounts to be proven
9 at trial, including attorney fees, costs, punitive damages and treble damages as provided under
10 RCW 19.86.090.
11

12
13 **III. THIRD CAUSE OF ACTION**
14 Violation of The Debt Adjusting Act

15 17. Plaintiff re-alleges and incorporates by reference each and every allegation set
16 forth in Paragraphs 1 through 16 above, inclusive, as though fully set forth herein.

17 18. Defendant is engaged in debt adjusting within the meaning of RCW 18.28.010
18 (1).

19 19. The fees retained by Defendant exceed the amounts allowed pursuant to RCW
20 18.28.080.

21 20. Defendant's violation of RCW 18.28.080 constitutes a *per se* violation of The
22 Debt Adjusting Act.

23
24 WHEREFORE, the Plaintiff prays for relief, as it may be amended from time to time, as
25 follows:

26 a) For Judgment against the Defendant in the amount of \$3,184.37; or
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KATHRYN A. ELLIS, ESQ.
5506 6th Ave S
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b) For treble damages in the amount of \$9,553.11 as provided for by the Washington State Consumer Protection Act, RCW 19.86 *et seq*;

c) For costs, including attorney fees and prejudgment interest from the date of first demand, September 1, 2016, as provided for by RCW 19.86 *et seq*; and

d) For such further relief as this Court deems just in the premises.

DATED this 12th day of October, 2016.

/s/ Kathryn A. Ellis
Kathryn A. Ellis, WSBA #14333
Attorney for Plaintiff

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